

# Washington, Wednesday, May 11, 1938

## PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDING SECTION 6 OF EXECUTIVE ORDER NO. 7845 OF MARCH 21, 1938, PRESCRIBING REGULATIONS RELATING TO ANNUAL LEAVE OF GOVERNMENT EMPLOYEES

By virtue of and pursuant to the authority vested in me by section 7 of the act of March 14, 1936, entitled "An act to provide for vacations to Government employees and for other purposes" (49 Stat. 1161), it is ordered that section 6 of Executive Order No. 7845, dated March 21, 1938, prescribing regulations relating to annual leave of Government employees, be, and it is hereby, amended to read as follows:

"Sec. 6. An employee transferred or reappointed without break in service from one permanent, emergency, or indefinite position to another permanent, emergency, or indefinite position within the same or a different governmental agency shall at the time of the transfer or reappointment be credited with such accumulated and current accrued leave as may be due him, or charged with any unaccrued leave which may have been advanced. 'Break in service' means separation from the service for a period of one or more work days."

This order shall be effective as of January 1, 1938, and shall be published in the Federal Register.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE, May 9, 1938.

INo. 78791

[F. R. Doc. 38-1320; Filed, May 9, 1938; 2:42 p.m.]

## EXECUTIVE ORDER

AMENDING SECTION 9 OF EXECUTIVE ORDER NO. 7846 OF MARCH 21, 1938, PRESCRIBING REGULATIONS RELATING TO SICK LEAVE OF GOVERNMENT EMPLOYEES.

By virtue of and pursuant to the authority vested in me by section 7 of the act of March 14, 1936, entitled "An act to standardize sick leave and extend it to all civilian employees" (49 Stat. 1162), it is ordered that section 9 of Executive Order No. 7846, dated March 21, 1938, prescribing regulations relating to sick leave of Government employees, be, and it is hereby, amended to read as follows:

"Sec. 9. An employee transferred or reappointed without break in service from one permanent, emergency, or indefinite position to another permanent, emergency, or indefinite position within the same or a different governmental agency shall be credited with accumulated sick leave and charged with sick leave previously advanced in excess of that accumulated at the time of transfer or reappointment. 'Break in service' means separation from the service for a period of one or more work days."

This order shall be effective as of January 1, 1938, and shall be published in the FEDERAL REGISTER.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE, May 9, 1938.

[No. 7880]

[P. R. Doc. 38-1321; Filed, May 9, 1938; 2:42 p. m.]

### TREASURY DEPARTMENT.

Bureau of Customs,

Bats of the genera ....

[T. D. 495481

IMPORTATION OF WILD ANIMALS AND BIRDS FROM CHINA

To Collectors of Customs and Others Concerned:

Treasury Decision 49378, dated February 3, 1938, as amended by Treasury Decision 49443, dated March 9, 1938, is hereby further amended by inserting between the words "of" and "wild," in the third line, the words "the following-named," and by inserting between the first and second sentences the following list of wild animals and birds affected:

### ANIMALS

Pipistrellus Myotis

Murina Rhinilopsis Hipposideros, and Piecotis  Tree Shrew (Tupaia belangeri chinensis) Hedge Hog (Erimaceus dealbatus and E. hanensis) Shrew (Sorex annexus, S. bedfordiae, Crocidura lasiura, C. microtis)  Mole (Talpa leptura)  BIRDS  Grouse and Ptarmigans: Willow Ptarmigan (Lagopus lagopus) Hazel Hen (Tetrastes bonasia) Tibetan Pheasant—Grouse (Tetraophasis szechenyii) Pheasants: Chinese Francolin (Francolinus pintadaeamus) Ralls: Water Rail (Rallus aquaticus) Eastern Baillou Crake (Porzana pusilla) Gallinules and Coots: Moorhen (Gallinula chloropus) Water Cock (Gallicrex cinerea) Coot (Fulica atra) Cranes: Manchurian Crane (Grus grus) Hooded Crane (Grus grus) Siberian Crane (Grus grus) Witterweise Common Cane (Grus grus) Witterweise Common Crane (Grus grus)		Vespertilio
Hipposideros, and Piecotis  Tree Shrew (Tupaia belangeri chinensis)  Hedge Hog (Erinaceus dealbatus and E. hanensis)  Shrew (Sorex annexus, S. bedfordiae, Crocidura lastura, C. microtis)  Mole (Talpa leptura)  Grouse and Ptarmigans:  Willow Ptarmigans (Lagopus lagopus)  Hazel Hen (Tetrastes bonasia)  Tibetan Pheasant—Grouse (Tetraophasis szechenyii)  Pheasants:  Chinese Francolin (Francolinus pintadaeamus)  Rails:  Water Rail (Railus aquaticus)  Eastern Baillou Crake (Porzana pusilla)  Gallinules and Coots:  Moorhen (Gallinula chloropus)  Water Cock (Gallicrex cinerea)  Coot. (Fulica atra)  Cranes:  Manchurian Crane (Grus grus)  Hooded Crane (Grus grus)  Hooded Crane (Sarcogeranus leucogeranus)	4	Murina
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<sup>13</sup> F. R. 330, 655 (DI).

13 F.R. 715 (DI).



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[SEAL]	JAMES H. MOYLE.
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Approved: May 5, 1938.

WAYNE C. TAYLOR,

Acting Secretary of the Treasury.

[F. R. Doc. 38-1326; Filed, May 10, 1938; 12:24 p. m.]

#### WAR DEPARTMENT.

SPECIAL REGULATIONS TO GOVERN THE OPERATION OF THE MINNE-APOLIS, ST. PAUL AND SAULT SAINTE MARIE RAILWAY COM-PANY AND THE VILLAGE OF OSCEOLA DRAWBRIDGES OVER THE ST. CROIX RIVER, WISCONSIN

Supplemental to Rules and Regulations to Govern the Operation of the Drawbridges Crossing the Mississippi River and All Its Navigable Tributaries and Outlets,

#### THE LAW

[Here follows, in the original document, the text of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362), which may be found at 3 F. R. 1056 (DI).]

#### THE REGULATIONS

In pursuance of the foregoing law, the following special regulations are prescribed to govern the operation of the following named drawbridges crossing the St. Croix River: the Minneapolis, St. Paul and Sault Sainte Marie Railway Company drawbridge approximately four miles south of Osceola, Wisconsin; and the Village of Osceola drawbridge at Osceola, Wisconsin.

 The owners of, or agencies controlling, the bridges will not be required to keep draw tenders in constant attendance at the above-mentioned bridges.

 Whenever a vessel unable to pass under a closed bridge desires to pass through the draw, at least 24 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of, or agency controlling, the bridge.

3. Upon receipt of such notice, the authorized representative of the owner of, or agency controlling, the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

4. The owners of, or agencies controlling, the bridges shall keep conspicuously posted on both the upstream and downstream sides of the bridges in a manner that it can easily be read at any time a copy of these regulations, together with a notice stating exactly how the representatives specified in paragraph 2 may be reached.

5. The operating machinery of the draws shall be maintained in a serviceable condition, and the draws opened and closed at least once each quarter to make certain that the machinery is in proper order for satisfactory operation.

6. These regulations shall take effect and be in force on and after the date of approval hereof, and all regulations or parts of regulations applying to the above-named bridges in conflict therewith are hereby revoked to take effect on that

Approved April 29, 1938,

[SEAL]

HARRY H. WOODRING, Secretary of War.

[F. R. Doc. 38-1322; Filed, May 10, 1938; 9:45 a. m.]

## DEPARTMENT OF THE INTERIOR.

National Bituminous Coal Commission.

[Order No. 241]

AN ORDER DIRECTING CODE MEMBERS TO REPORT TO THE STATISTICAL BUREAUS OF THE COMMISSION ANY CHANGE IN NAME OF PRODUCING COMPANY, MANAGEMENT, OR OWNERSHIP

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby orders the following:

 Code Members shall report any change in name of producing company, management, or ownership, within ten days after any such change occurs to the proper Satistical Bureau of the Commission for the district within which the mine or mines of Code Members are located.

2. A list of the Statistical Bureaus for the respective dis-

tricts is attached hereto.

That the Secretary of the Commission shall, forthwith, mail a copy of this order to the Secretaries of the Bituminous Coal Producers' Boards for the several districts, to the Consumers' Counsel, and to all code members, and shall cause a copy of this Order to be published in the FEDERAL REGISTER.

By order of the Commission. Dated this 6th day of May, 1938.

[SEAL]

Edgar C. Faris, Jr., Acting Secretary.

### LOCATION OF THE STATISTICAL BUREAUS FOR THE 23 DISTRICTS

District	Address	
1	12th Avenue and 12th Street, Altoona, Pa.	
2	Empire Bldg., 507 Liberty Ave., Pittsburgh, Pa.	
	Jacobs Bldg., Monroe & Meredith Sts., Fairmont,	W. Va
	Bulkley Bldg., Euclid Ave., Cleveland, Ohio.	
	Goff Bldg., Franklin Street, Saginaw, Mich.	
	Register Building, Wheeling, W. Va.	
	Law and Commerce Bldg., Federal St., Bluefield,	W. Va
	Ashland Oil and Refining Bldg., Ashland, Ky.	1150
	Starks Building, Louisville, Ky.	
	Merchandise Mart, Chicago, Ill.	
	Chamber of Commerce Bldg., Indianapolis, Ind.	
	Walnut Building, Des Moines, Iowa.	
	2300 Comer Building, Birmingham, Ala.	
	First National Bank Building, Fort Smith, Ark.	
	12th and Oak Building, Kansas City, Mo.	
	Central Savings Bank Building, Denver, Colo.	
	Central Savings Bank Building, Denver, Colo.	
	Room 101, Post Office Bldg., Santa Fe, N. Mex.	
	New Federal Bldg., 21st & Carey Ave., Chevenne,	Www
	Union Pacific Building, Salt Lake City, Utah.	Wyo.
	Bismarck, N. Dak	
	Empire Building, Billings, Mont.	
	Puget Sound Bank Bldg., Tacoma, Wash.	
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17	P. R. Doc. 38-1324; Filed, May 10, 1938; 11:23 a. m.]	

In the Matter of the Applications for Exemption Under

SECTION 4 (1) AND THE SECOND PARAGRAPH OF SECTION 4-A OF THE BITUMINOUS COAL ACT OF 1937

COWGILL MINE, CAMBRIDGE, OHIO, (DOCKET NO. 322-FD); BLUE DIAMOND COAL COMPANY, POMEROY, OHIO, (DOCKET NO. 323-FD); JAMES KENNARD, NEW PLYMOUTH, OHIO, (DOCKET NO. 324-FD); J. H. WISECARVER, R. F. D. NO. 1, SONORA, OHIO, (DOCKET NO. 325-FD); DARK HOLLOW COAL CO., MIDDLEPORT, OHIO, (DOCKET NO. 326-FD); H. S. GANDER COAL CO., CAMBRIDGE, OHIO, (DOCKET NO. 327-FD); PLAINVIEW COAL CO., CAMBRIDGE, OHIO, (DOCKET NO. 328-FD); THE SHARRATT COAL CO., CAM-BRIDGE, OHIO, (DOCKET NO. 329-FD); HAMILTON TRENNER COAL CO., CAMBRIDGE, OHIO, (DOCKET NO. 330-FD); JOE GROZDON, BELLAIRE, OHIO, (DOCKET NO. 331-FD); ROBINSON CLAY PRODUCT CO., AKRON, OHIO, (DOCKET NO. 332-FD); GENERAL CLAY PROD-UCTS CO., COLUMBUS, OHIO, (DOCKET NO. 333-FD); HICKORY CLAY PRODUCTS CO., MINERAL CITY, OHIO, (DOCKET NO. 334-FD); JOS. F. HOSENFELD, MARTINS FERRY, OHIO, (DOCKET NO. 335-FD); ROSS MATTERN, CADIZ, OHIO, (DOCKET NO. 336-FD); M. R. M'CON-NELL, MT. EPHRAIM, OHIO, (DOCKET NO. 337-FD); BIG LUMP COAL CO., POMEROY, OHIO, (DOCKET NO. 338-FD); T. E. LUMAN, ROSEVILLE, OHIO, (DOCKET NO. 339-FD); METROPOLITAN PAVING ERICK CO., CANTON, OHIO, (DOCKET NO. 340-FD); THOMPSON AND EDMISTON, R. F. D. NO. 1, DILLONVALE, OHIO, (DOCKET NO. 341-FD); JACKSON IRON AND STEEL CO., JACKSON, OHIO, (DOCKET NO. 342-FD); PORTSMOUTH CLAY PRODUCTS CO., SOUTH WEBSTER, OHIO, (DOCKET NO. 343-FD)

Supplemental Notice of and Order for Hearing

It appearing that the Notice of and Order for Hearings in the State of Ohio, issued by the Commission as of April 30, 1938,' with respect to the above entitled applications should be supplemented in certain particulars;

Now, therefore, It is hereby ordered;

 That the Docket number of 322-FD as assigned to such original notice and order is hereby stricken as applied to the group of petitioners named in such order of April 30, 1938.

That the Docket numbers hereinbefore set opposite the name of each individual applicant in the caption hereof shall be the Formal Docket number for such separate and individual case.

3. That the application of the Jackson Iron and Steel Company, Jackson. Ohio, and the Portsmouth Clay Products Company, South Webster, Ohio, be added to and made a part of the Commission Order for Hearings in the State of Ohio issued by the Commission as of April 30, 1938.

4. That the notice to the Cambria Clay Products Company, Blackford, Ohio, and the notice to the Muskingum Coal Company, Zanesville, Ohio, are hereby revoked and stricken from

the original Notice of and Order for Hearings.

5. That, beginning on the 24th day of May, 1938, at ten o'clock a. m. at the Hearing Room of the Commission in the Rogge Hotel, Zanesville, Ohio, hearings on the said applications be held before Charles O. Powler, an Examiner of this Commission designated and appointed to take testimony and receive evidence in these proceedings and to perform all other duties authorized by law.

6. That said Examiner is hereby authorized and directed to designate, at the opening session of the hearings herein noticed, the order in which the above entitled applications will be heard, and to adjourn said hearings from time to time and to such place or places within the State of Ohio as the convenience of the applicants and necessities of the

occasion may require.

7. The Secretary of the Commission is directed forthwith to mail a copy of this notice to each of the applicants above named or to their Attorneys of record; to the Consumers' Counsel; to the Secretary of each District Board, and shall cause a copy hereof to be filed and made available for inspection at each of the Statistical Bureaus of the Commission; and shall cause a copy hereof to be published for two consecutive days in two newspapers of general circulation in the State of Ohio; and shall cause a copy hereof to be published in the Federal Register.

By order of the Commission. Dated this 6th day of May, 1938.

[SEAL]

EDGAR C. FARIS, Jr.,
Acting Secretary.

[F. R. Doc. 38-1325; Filed, May 10, 1938; 11:23 a. m.]

### DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION WITH RESPECT TO A PROPOSED ORDER REGULATING THE HANDLING IN INTERSTATE COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE, OF POTATOES GROWN IN THE STATE OF LOUISIANA AND IN CERTAIN DESIGNATED COUNTIES IN THE STATES OF TEXAS, MISSISSIPPI, ALABAMA, AND FLORIDA

Whereas, the Secretary of Agriculture, pursuant to the provisions of Public No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agree-

<sup>13</sup> F. R. 1039 (DI).

ment Act of 1937, having reason to believe that the execution of a marketing agreement and the issuance of an order with respect to the handling of Irish potatoes grown in the State of Louisiana; and in the counties of Bexar, Medina, Wilson, Atascosa, Wharton, Colorado, Fort Bend, Liberty, and Harris in the State of Texas; the counties of Warren, Hinds, Rankin, Scott, Newton, and Lauderdale, and all counties south thereof, in the State of Mississippi; the counties of Baldwin, Mobile, and Escambia in the State of Alabama; and the counties of Escambia and Santa Rosa in the State of Fiorida, would tend to effectuate the declared policy of the said act, gave, on the 28th day of March, 1938, notice of hearings,' which were held at Baton Rouge, Louisiana, on the 5th day of April; San Antonio, Texas, on the 7th day of April; Wharton, Texas, on the 8th day of April; Hattiesburg, Mississippi, on the 8th day of April; and Foley, Alabama, on the 9th day of April, 1938, on a proposed marketing agreement and a proposed order regulating the handling of Irish potatoes grown in the aforesaid area, at which times and places all interested parties were afforded an opportunity to be heard; and

Whereas, after such hearings and after the tentative approval by the Secretary of Agriculture of a marketing agreement on the 14th day of April, 1938, handlers of more than fifty per centum of the volume of potatoes covered by such proposed order, which are produced within the aforementioned area, refused or failed to sign such marketing agreement relating to potatoes;

Now, therefore, the Secretary of Agriculture, by virtue of the authority vested in him by Public No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby determines:

1. That the refusal or failure of the said handlers to sign the said marketing agreement tends to prevent the effectuation of the declared policy of the above-mentioned act with respect to potatoes grown in the aforementioned area; and

That the issuance of the proposed order is the only practical means, pursuant to such policy, of advancing the interest of producers of potatoes in the said area; and

3. That the issuance of the proposed order is approved or favored by over two-thirds of the producers who, during the marketing season of 1937, said season being here and now determined to be a representative period, have been engaged in the aforementioned area in the production for market of potatoes.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, have executed this determination and have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 7th day of May, 1938.

[SEAL]

H. A. WALLACE, Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT

The President of the United States

Dated May 9, 1938.

[F. R. Doc. 38-1328; Filed, May 10, 1938; 12:46 p. m.]

ORDER REGULATING THE HANDLING IN INTERSTATE COMMERCE, AND SUCH HANDLING AS DIRECTLY BURDENS, OBSTRUCTS, OR AFFECTS INTERSTATE COMMERCE, OF IRISH POTATOES GROWN IN THE STATE OF LOUISIANA; AND IN THE COUNTIES OF ATASCOSA, BEXAR, COLORADO, FORT BEND, HARRIS, LIBERTY, MEDINA, WHARTON AND WILSON IN THE STATE OF TEXAS; THE COUNTIES OF WARREN, HINDS, RANKIN, SCOTT, NEWTON AND LAUDERDALE, AND ALL COUNTIES SOUTH THEREOF, IN THE STATE OF MISSISSIPPI; THE COUNTIES OF BALDWIN, ESCAMBIA AND MOBILE IN THE STATE OF ALABAMA; AND THE COUNTIES OF ESCAMBIA AND SANTA ROSA IN THE STATE OF FLORIDA

Whereas, under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (hereinafter referred to as the "act"), it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of the act, issue orders regulating such handling of certain agricultural commodities, including potatoes, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs or affects interstate or foreign commerce in such commodities; and

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such-orderly marketing conditions in interstate commerce for potatoes grown in the State of Louisiana; and in the counties of Atascosa, Bexar, Colorado, Fort Bend, Harris, Liberty, Medina, Wharton and Wilson in the State of Texas; the counties of Warren, Hinds, Rankin, Scott, Newton and Lauderdale, and all counties south thereof, in the State of Mississippi; the counties of Baldwin, Escambia and Mobile in the State of Alabama; and the counties of Escambia and Santa Rosa in the State of Florida, as would establish prices to the producers of such potatoes at a level that would give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period, August 1919-July 1929, conducted public hearings at Baton Rouge, Louisiana, April 5, 1938, San Antonio, Texas, April 7, 1938, Wharton, Texas, April 8, 1938, Hattiesburg, Mississippi, April 8, 1938, and Foley, Alabama, April 9, 1938, pursuant to due notice given to all interested parties on March 28, 1938,1 on a proposed order regulating such handling of such potatoes as is in the current of interstate commerce, or which directly burdens, obstructs or affects such commerce in the said potatoes, at which hearings all interested persons in attendance were offered due opportunity to be heard concerning the proposed order; and

Whereas, the Secretary finds upon the basis of the evidence introduced at the hearings and the record thereof:

(1) That at the time of the hearings the prices received by the producers of such potatoes were at a level that gave such potatoes a purchasing power with respect to articles that such producers buy appreciably below the purchasing power of such potatoes during the base period;

(2) That the regulation of shipments by grades and sizes of the potatoes covered by this order, as prescribed herein, will serve to prevent marked fluctuations in prices to the producers thereof, and will establish and maintain a more stabilized market for such potatoes, tending to establish prices to such producers at a level that will give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes during the base period;

(3) That this order is limited in its application to the smallest regional productions area and to the smallest regional marketing area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production and marketing areas would not effectively carry out the declared policy of the act;

(4) That the pro rata contribution of handlers to the expenses of the administrative agency herein created, as provided in this order, is fair and equitable; and

(5) That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to such potatoes by establishing and maintaining such orderly marketing conditions therefor as will establish prices to producers thereof at a level that will give such potatoes a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such potatoes in the base period and by protecting the interest of the consumer by (a) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices

<sup>13</sup> F.R. 772 (DI).

<sup>13</sup> F.R. 772 (DI).

at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the level which it is declared in the act to be the policy of Congress to establish; and

whereas, the Secretary finds that after the said hearings and after the tentative approval by the Secretary on April 14, 1938, of a marketing agreement which regulates the handling of such potatoes in the same manner as this order, upon which hearings were held on April 5, April 7, April 8 and April 9, 1938, handlers (excluding cooperative associations of producers who are engaged in processing, distributing, or shipping the potatoes covered by this order) who handled more than fifty (50) percent of the volume of potatoes covered by this order, and marketed during the 1937 season in the current of interstate commerce, refused or failed to sign the said marketing agreement with the Secretary; and

Whereas, the Secretary determined on the 7th day of May 1938, said determination being approved by the President of the United States on the 9th day of May 1938, that such refusal or failure to sign the tentatively approved marketing agreement tends to prevent the effectuation of the aforesaid declared policy of the act and that the issuance of this order is the only practical means, pursuant to such policy, of advancing the interests of producers of such potatoes, and is approved or favored by over two-thirds of the producers who, during the 1937 marketing season, said season being herewith determined to be a representative period, have been engaged in the production for market of such potatoes; and

Whereas, the Secretary finds that this order regulates the handling of such potatoes in the same manner as the aforesaid tentatively approved marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement;

Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that such handling of the said potatoes as is in the current of interstate commerce, or which directly burdens, obstructs or affects interstate commerce in such potatoes, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of this order.

### ARTICLE I-DEFINITIONS

Section 1.—As used herein, the following terms have the following meanings:

- 1. "Secretary" means the Secretary of Agriculture of the United States;
- "Act" means Public No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;
- 3. "Person" means individual, partnership, corporation, association, or any other business unit;
- 4. "Potatoes" means and includes all varieties of Irish (white) potatoes grown within the area described in paragraph 8 of this section and harvested during 1938;
- 5. "Ship" or "handle" means to put potatoes into the channels of trade by conveying or causing them to be conveyed (but not as a common carrier for another person) by railroad, truck, boat, or any other means whatsoever, in the current of interstate commerce, or so as directly to burden, obstruct, or affect interstate commerce; but does not include the act of a producer in merely transferring ownership or title to a handler;
- 6. "Producer" means any person who produces potatoes for sale:
- 7. "Handler" means any person who ships or otherwise handles potatoes, or permits another person to ship or otherwise handle potatoes in the name of such first person, but does not include a producer who transports potatoes to the customary grading or loading point nearest the place of production of such potatoes; and

8. "Area" means and includes the following geographical area:

All of the parishes in the State of Louisiana;

The counties of Atascosa, Bexar, Colorado, Fort Bend, Harris, Liberty, Medina, Wharton, and Wilson, in the State of Texas:

The counties of Warren, Hinds, Rankin, Scott, Newton and Lauderdale, and all counties south thereof, in the State of Mississippi;

The counties of Baldwin, Escambia and Mobile in the State of Alabama; and

The counties of Escambia and Santa Rosa in the State of Florida.

### ARTICLE II-GENERAL CULL REGULATIONS

Section 1. Limitation of shipments.—No handler shall ship or handle in the current of interstate commerce, or so as directly to burden, obstruct or affect interstate commerce, any lot of potatoes which do not grade at least U. S. No. 2, as defined in the "United States Standards for Potatoes," issued by the United States Department of Agriculture, effective September 15, 1936, except (1) that a mixture of varieties may be shipped; (2) that under no circumstances shall the size be less than 1½ inches in diameter with the standard tolerance for undersize of 5 percent by weight; and (3) that potatoes not grading U. S. No. 2 because of serious damage by dirt may be shipped if such potatoes otherwise meet the requirements of U. S. No. 1 grade.

### ARTICLE III-GRADING AND INSPECTION

Section 1. Certification.—No handler shall ship or handle any potatoes unless they are inspected by an authorized representative of the Federal-State Inspection Service and a certificate is issued showing the information necessary to determine whether such potatoes conform with the requirements of article II and of the regulations, if any, issued pursuant to article IV hereof.

## ARTICLE IV-GRADE AND SIZE REGULATIONS

Section 1. Establishment of regulations.-Whenever the Secretary shall find, on the basis of a recommendation of the area committee and other available information, that to limit further the shipment of potatoes would tend to effectuate the declared policy of the act, he shall, during any specified period, limit the shipments of potatoes grown in the area or any part thereof, to potatoes of specified grades or sizes or qualities or combinations thereof, and any such limitation may specify tolerances for particular defects in quality and may apply to any or all varieties: Provided, That the Secretary shall not limit the shipment of potatoes which are at least 1% inches in diameter and otherwise grade U. S. No. 1. as defined in the aforesaid "United States Standards for Potatoes." No regulation issued pursuant hereto shall become effective within less than 48 hours after issuance thereof by the Secretary.

SEC. 2. Percentage exemptions.—1. In the event that shipments of potatoes are limited pursuant to this article, the area committee shall determine, from time to time, for those parts of the area subject to the limitation, the percentage which the quantity of potatoes available for shipment under such limitation during the regulation period is of the total quantity of potatoes which would otherwise be available for shipment during such period in the absence of such regulation and shall immediately announce the results of such determination. The Secretary shall have the right to change or modify any such determinations of percentages.

2. If any producer furnishes evidence to the area committee that the limitation of shipments, as provided for in this article, during any period will not permit the shipment of a percentage of his potatoes during such period equal to the percentage determined pursuant to paragraph 1 hereof, the said committee shall issue, upon the request of such producer, an exemption certificate which will permit the shipment of such a quantity of his potatoes as will make the

percentage of his potatoes that may be shipped equal to the percentage determined for that part of the area in which such producer's potatoes are grown. Any action taken by the area committee with respect to exemptions shall be subject to the continuing right of the Secretary to review the same and to direct the said committee to take such other or further action in the matter as the Secretary may deem necessary.

SEC. 3. Other exemptions.—Nothing contained in this article shall be construed to authorize any limitation of the right to ship potatoes (1) for consumption to charitable institutions or distribution by relief agencies; (2) which are officially certified for seed purposes by the respective official state seed potato certification agencies; and (3) for canning or for manufacture into alcohol, starch, flour or vinegar, or for any other manufacturing purpose approved by the Secretary, or for feed for livestock and which are in due course ocanned, manufactured or so used for livestock feed. The area committee may recommend and the Secretary may prescribe adequate safeguards to prevent potatoes shipped for such purposes from being introduced into the commercial channels of trade contrary to the provisions hereof.

SEC. 4. Compliance.—Except as provided herein, no handler shall ship or contract to ship potatoes, the shipment of which has been prohibited by the Secretary.

SEC. 5. Notice.—The area committee shall give notice of any regulation of shipments, issued by the Secretary pursuant to this article, at least twenty-four (24) hours before the time it becomes effective, by issuing a press release, posting a notice in the office of the said committee or by such other available means as the said committee deems necessary to give producers and handlers notice of such regulation.

### ARTICLE V-STATE ADVISORY COMMITTEES

Section 1. Membership.—The Secretary shall select a State Advisory Committee for each of the States of Texas, Louisiana and Mississippi, and one for that part of the area lying in the States of Alabama and Florida. Each of the four such committees shall consist of five (5) members, of whom three (3) shall be producers and two (2) shall be handlers. The Secretary shall in like manner select successors to members.

Sec. 2. Powers and duties.—Each State Advisory Committee shall:

- Act as intermediary between the producers and handlers located within their respective territories and the area committee;
- Assist the area committee in carrying out its duties hereunder by securing for such committee information with respect to conditions relating to the potato industry and such other information as the area committee may request; and
- Upon request of the area committee, investigate complaints of violation hereof and submit reports thereon to the area committee.
- SEC. 3. Expenses.—The members of the committees shall serve without compensation, but may be reimbursed by the area committee, out of funds collected pursuant to article VII hereof, for necessary expenses incurred, pursuant to the authority of the area committee, in the performance of their duties.

## ARTICLE VI-AREA COMMITTEE

Section 1. Membership and organization.—I. The Secretary shall select from among the members of the State Advisory Committees an area committee consisting of ten members, of whom six shall be producers and four shall be handlers. One producer and one handler shall be selected from each of the States of Texas and Mississippi; two producers and one handler from the State of Louisiana; and two producers and one handler from that part of the area lying in the States of Alabama and Florida. The Secretary shall likewise select for each member of the committee an alternate with the same qualifications (except membership in a State

Advisory Committee), and in like manner shall select successors to members and to alternates.

Any person selected as a member or an alternate shall qualify by filing a written acceptance of his selection with the Secretary or his designated agent.

- An alternate for a member of the area committee shall act in the place and stead of such member, in his absence or in the event of his death, removal, resignation, or disqualification.
- 4. The members of the area committee shall select a chairman from their membership, and shall select such other officers and adopt such rules for the conduct of its business as it may deem advisable. The committee shall give to the Secretary or his designated agent the same notice of meetings of the committee as is given to the members thereof.

Sec. 2. Powers.—The area committee shall have the power:

- (1) To administer, as herein specifically provided, the terms and provisions hereof;
- (2) To make, in accordance with the provisions herein contained, administrative rules and regulations;
- (3) To receive, investigate and report to the Secretary complaints of violations hereof; and
- (4) To recommend to the Secretary amendments hereto. Szc. 3. Duties.—It shall be the duty of the area committee:
- (1) To act as intermediary between the Secretary and any producer or handler:
- (2) To keep minute books and records which will clearly reflect all of its activities and transactions, which minute books and records shall at any time be subject to the examination of the Secretary;
- (3) To furnish to the Secretary such available information as he may request;
- (4) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees and obtain a bond covering each employee who is entrusted with funds of the said committee;
- (5) To consult with any other committee established pursuant to, or with handlers operating under, any marketing agreement or order of the Secretary, with respect to the handling of potatoes grown in any region covered by such other marketing agreements or orders, to the end that the administration hereof may be coordinated with the administration of such other agreements or orders so as to best effectuate their respective purposes; and
- (6) To cause its books to be audited by one or more competent accountants at least once each year and at such other times as the Secretary may request, and to file with the Secretary copies of all such audit reports.
- SEC. 4. Expenses.—The members of the area committee and their alternates shall serve without compensation, but may be allowed expenses necessarily incurred in the performance of their duties hereunder.
- Sec. 5. Procedure.—1. Upon the selection of a majority of its members, the area committee may commence to function. A majority of all members shall constitute a quorum.
- For any action of the area committee to be valid, a majority of the votes of all members of the committee shall be necessary.
- The area committee may vote by mail, telegram, or radiogram upon due notice to all members eligible to vote.
- 4. The members of the area committee (including successors and alternates) and any agent or employee appointed or employed by the said committee shall be subject to removal or suspension by the Secretary at any time.
- 5. Each and every order, regulation, decision, determination, or other act of the area committee shall be subject to the continuing right of the Secretary to disapprove the same at any time, and, upon his disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

Sec. 6. Funds and other property.-All funds received by the area committee pursuant to any provision hereof shall be used solely for the purpose of paying its necessary expenses hereunder and shall be accounted for in the following manner:

(1) The Secretary may, at any time, require the said committee and its members to account for all receipts and dis-

bursements; and

(2) Upon the removal or expiration of the term of office of any member of the said committee, such a member shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office, or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such other person full title to all of the property, funds, or claims vested in such member pursuant

## ARTICLE VII-ASSESSMENTS AND EXPENSES

Section 1. Expenses.—The area committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions hereunder. The funds to cover such expenses shall be acquired by the levying of assessments

as hereinafter provided.

SEC. 2. Assessments.—Each handler shall pay to the area committee, upon demand, his pro rata share of the expenses which the Secretary finds will necessarily be incurred by the said committee for its maintenance and functioning. The amount of the assessment, which shall not exceed \$1 for each railroad car, or 50e for each truck of potatoes, shall be recommended by the area committee and shall be fixed by the Secretary. Such assessment may in like manner be adjusted from time to time to cover any later finding by the Secretary of estimated expenses or the actual expenses incurred.

SEC. 3. Shipping permits.—The Secretary may, in his discretion and for the purpose of collecting money for administrative expenses hereunder, require handlers to purchase from the area committee permits to be affixed to each package, lot, carlot, or shipment of potatoes before the same shall be handled: Provided, however, That any payments received for such permits shall be used for the purpose of paying the expenses of administration hereof and shall, in no event, exceed the pro rata share of expenses required to be paid by any handler. A handler's pro rata share of the expenses shall be that proportion thereof which the total quantity of potatoes shipped by him is of the total quantity of potatoes shipped by all handlers.

## ARTICLE VIII-REPORTS

Section 1. Reports .- Upon the request of the area committee, made with the approval of the Secretary, every handler shall furnish the said committee, in such manner and at such times as it prescribes, such information as it deems necessary to enable it to exercise its powers and perform its duties hereunder.

### ARTICLE IX-LIABILITY

Section 1. Liability .- No member or alternate of the several committees, nor any employee thereof, shall be held liable individually, in any way whatsoever, to any party hereto or any other person for errors in judgment, mistakes or other acts, either of commission or omission, as such member, alternate or employee, except for acts of dishonesty.

### ARTICLE X-SEPARABILITY

Section 1. Separability.—If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance or thing shall not be affected thereby.

## ARTICLE XI-DEROGATION

Section 1. Derogation .- Nothing contained herein is, or shall be construed to be, in derogation or in modification

of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act, or otherwise, or (2) in accordance with such powers to act in the premises whenever such action is deemed advisable.

### ARTICLE XII-AGENTS

Section 1. Agents.-The Secretary may, by designation in writing, name any persons, including any officers or employees of the Government, or name any bureaus or divisions in the Department of Agriculture, to act as his agents or representatives in connection with any of the provisions

### ARTICLE XIII-EFFECTIVE TIME AND TERMINATION

SECTION 1. Effective time.—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereafter specified.

SEC. 2. Suspension and termination.—This order, any provision hereof or any amendment hereto, may be suspended or terminated by the Secretary, as to any or all handlers, after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. Unless sooner terminated, this order shall termi-

nate at 11:59 P. M., July 31, 1938.
Sec. 4. Proceedings after termination.—1. Upon the termination of this order, the members of the area committee then functioning shall continue as joint trustees, for the purposes of this order, of all funds and property then in the possession of or under the control of said committee, including claims for any funds unpaid or property not delivered at

the time of such termination. 2. The said trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall account, from time to time, for all receipts and disbursements and deliver all funds and property on hand, together with all books and records of the area committee and of the joint trustees, to such person as the Secretary shall direct; and (c) shall execute, upon the request of the Secretary, such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds or claims vested in the area committee or the joint trustees pursuant to this agreement. Any funds collected pursuant to article VII, and held by such joint trustees or such person, over and above the amount necessary to meet outstanding obligations and expenses necessarily incurred by the joint trustees or such other person in the performance of their duties hereunder, shall be returned as soon as practicable after the termination of this order to the handlers, pro rata, in proportion to their contributions made pursuant to this order.

3. Any and all persons to whom funds or claims have been delivered by the area committee or its members, pursuant to this section, shall be subject to the same obligations and duties with respect to said funds as are hereinabove imposed upon the members of said committee.

## ARTICLE XIV-DURATION OF IMMUNITIES

Section 1. Duration of immunities.-The benefits, privileges, and immunities conferred by virtue of this order shall cease upon its termination, except with respect to acts done under and during the existence of this order,

In witness whereof, H. A. Wallace, Secretary of Agriculture, has executed this order in duplicate and has caused the official seal of the Department of Agriculture to be affixed hereto in the city of Washington, District of Columbia, on the 9th day of May 1938, and declares this order to be effective on and after 12:01 a. m., May 12, 1938.

H. A. WALLACE. Secretary of Agriculture.

[F. R. Doc. 38-1329; Filed, May 10, 1938; 12:46 p. m.]

PRICES FOR 1938 CROP OF SUGARCANE

NOTICE OF HEARING AND DESIGNATION OF PRESIDING OFFICERS

Pursuant to the authority contained in Sections 301 (d) and 511 of the Sugar Act of 1937 (Public No. 414, 75th Congress).

Notice is hereby given that a public hearing will be held at Baton Rouge, Louisiana, in the Agricultural Auditorium, Louisiana State University and A. & M. College, on May 17, 1938, at 1:06 p. m.

The purpose of such hearing is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, pursuant to the provisions of Section 301 (d) of the said act, fair and reasonable prices for the 1938 crop of sugarcane to be paid by processors, who, as producers, apply for payments under the said act.

Joshua Bernhardt and Robert B. Tyler are hereby designated as presiding officers to conduct either jointly or sev-

erally the foregoing hearing.

Done at Washington, D. C., this 9th day of May, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE, Secretary of Agriculture.

. [P. R. Doc. 38-1330; Filed, May 10, 1938; 12:46 p. m.]

## FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of April, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3197]

In the Matter of Waldo W. Townsley, an Individual, Doing Business as Serval-System

### ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer filed herein on March 21, 1938, whereby respondent admitted all the material allegations of the complaint to be true, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Waldo W. Townsley, an individual, doing business under the trade name Serval-System, or under any other trade name, his agents, representatives and employees, in connection with the offering for sale, sale and distribution of a bookkeeping system now designated a Serval-System, whether sold under that name or under any other name, in interstate commerce in the District of Columbia, do forthwith cease and desist from representing, in any manner whatsoever:

1. That said bookkeeping system is easy to sell;

That large numbers of sets of said system have been sold in any given community unless such is the fact;

That the system is indorsed by local banks and business concerns;

 That the respondent is in search of a local representative or territorial distributor to supervise the sale of said systems in a given territory;

That no cash outlay is required by so-called local representatives or territorial supervisors; 6. That the so-called local representatives or territorial distributors are required to do no selling; and that their only duty is to handle the money, supervise and pay the salesmen;

That respondent will organize and train sales forces to sell the sets under the supervision of a so-called local repre-

sentative or territorial supervisor:

8. That greater commissions are obtainable if a cash advance sufficient to cover cost of printing the systems contracted for is made by the so-called local representative or territorial distributor.

It is further ordered. That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[F. R. Doc. 38-1323; Filed, May 10, 1938; 10:27 a. m.]

### SECURITIES AND EXCHANGE COMMISSION.

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

MINOR AMENDMENT TO RULES

Paragraph (d) of Rule 11F-1 amended by adding at the end of the first sentence thereof: "or any rules or order pursuant to section 12."

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Sections 11 (f) and 20 (a) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers, and to carry out the purposes of said Act, the Securities and Exchange Commission hereby amends paragraph (d) of Rule 11F-1 to read as follows:

(d) If the plan proposed includes acquisition of assets or securities or issuance of securities, the application, in addition to other appropriate matters, shall include the information required by sections 6 (b), or 7 or 10 and the rules, regulations and forms thereunder, or any rules or order pursuant to section 12. The Commission, at the time when it issues its order approving or withholding approval of the plan, will determine whether or not the requirements of said sections are satisfied, subject, however, to retention of jurisdiction as provided in paragraph (e) hereof. If it is not feasible to set forth in such application, as initially filed, all the terms and conditions of any such transaction, or definitive documents and specifications with respect thereto, or for all of the persons required by any such rule or form or provision of the Act to join in applications thereunder, to join in such application, such matters, together with such definitive documents and specifications, may be supplied and such persons may so join by amendment. Such amendment may be filed either prior or subsequent to the order of the Commission approving such plan, but shall be filed prior to the carrying out of any such act or transaction proposed in such plan. In the case of any person so joining by amendment in an application with respect to a plan theretofore filed by any other person, such amendment shall specify the extent to which the person executing such amendment ratifies and adopts the statements contained in the application as theretofore filed or amended.

Effective May 10, 1938.

By the Commission.

[SEAL]

FRANCIS P. BRASSON, Secretary.

[F. R. Doc. 38-1327; Filed, May 10, 1938; 12:33 p. m.]

13 F.R.3 (DI).